

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ERIC TOLLIVER,

Plaintiff,

- against -

NEW YORK STATE DEPARTMENT OF  
CORRECTIONAL SERVICES et al.,

Defendants.

- - - - -X

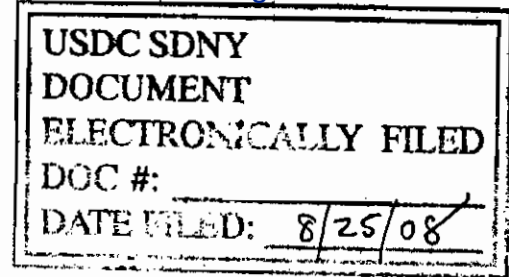
**CHIN, District Judge**

Plaintiff Eric Tolliver has moved for a default judgment based on defendants' failure to respond to his complaint. Defendants' prior deadline to respond was August 18, 2008. On August 15, 2008, in response to a letter request by defendants' counsel, I ordered the deadline extended to August 21, 2008. Apparently, because of an inadvertent error, my August 15, 2008, order was not sent to plaintiff. Defendants have since moved to dismiss plaintiff's complaint, serving plaintiff with their motion on August 21, 2008, and filing the motion with the Clerk of the Court on August 22, 2008.

Defendants have responded to plaintiff's complaint in a timely manner. Plaintiff's motion for a default judgment is accordingly denied.

SO ORDERED.

Dated: New York, New York  
August 25, 2008



  
DENNY CHIN  
United States District Judge